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MONITORING THE IMPLEMENTATION OF THE NAIROBI FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN

Follow-up to the World Conference on Human Rights

Report of the Secretary-General

SUMMARY

The General Assembly, in its resolution 48/108 of 20 December 1993, requested the Secretary-General to prepare a report to the Commission on the Status of Women, for consideration at its thirty-eighth session, on steps to be taken by the Division for the Advancement of Women, in cooperation with other United Nations bodies, specifically the Centre for Human Rights of the Secretariat, to ensure that relevant human rights mechanisms of the United Nations, such as treaty-monitoring bodies, rapporteurs and working groups, regularly address violations of women's human rights, including gender-specific abuses. The present report discusses how the programmes on the advancement of women and human rights developed and current cooperation between the Division for the Advancement of Women and the Centre for Human Rights, and proposes possible measures to be taken.

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INTRODUCTION

1. The General Assembly, in its resolution 48/108 of 20 December 1993, requested the Secretary-General to prepare a report to the Commission on the Status of Women, for consideration at its thirty-eighth session, on steps to be taken by the Division for the Advancement of Women, in cooperation with other United Nations bodies, specifically the Centre for Human Rights of the Secretariat, to ensure that relevant human rights mechanisms of the United Nations, such as treaty-monitoring bodies, rapporteurs and working groups, regularly address violations of women's human rights, including gender-specific abuses.

2. The human rights mechanisms referred to in resolution 48/108 represent a broad range of mandates, responsibilities and working methods. They deal with a variety of human rights situations, from monitoring the implementation of treaty obligations regarding economic, social, cultural, civil and political rights, the rights of children, torture and racial discrimination, to country and thematic rapporteurs, and issue-specific activities.

3. In proposing steps to be taken by the Division for the Advancement of Women to ensure that relevant human rights mechanisms of the United Nations regularly address violations of women's human rights, the Secretary-General has taken into account the origins of the consideration of women's human rights by the United Nations, the nature of the work being undertaken by the various organizations concerned, the comparative advantages provided by each and the resources available.

I. WOMEN'S HUMAN RIGHTS AND THE GENERAL HUMAN RIGHTS REGIME

4. One of the first decisions taken in designing the United Nations human rights regime was to provide a separate, parallel track for work on women's rights. This two-track approach has continued over the next 48 years and it is important to understand the reasons behind that fundamental decision.

5. At the first session of the Economic and Social Council, in 1945, a decision was taken to include under the Commission on Human Rights a Subcommission on the Status of Women. The report of the nuclear Commission on Human Rights and its subcommissions was submitted to the Economic and Social Council at its second session, in May 1946. Mrs. Eleanor Roosevelt (United States of America) presented the report of the nuclear Commission and, by implication, suggested that the Subcommission on the Status of Women remain within the purview of the Commission on Human Rights. The chairperson of the nuclear Subcommission on the Status of Women addressed the Council. After describing the importance of the question of dealing with the fundamental social and economic inequalities between men and women, the chairperson emphasized that United Nations work must cover all fields of human enterprise in which progress was needed. The Subcommission had, therefore, proposed that its aims should be classified under the following headings: political, civil, social, economic and educational. She noted the recommendation that world-wide public opinion should be stimulated in favour of raising the status of women. She

asserted that women all over the world would feel great satisfaction that there was a women's office at the Headquarters of the United Nations. She noted that the members of the Subcommission were well aware of the reasons why the Economic and Social Council, in establishing the Subcommission, had placed it under the wing of the Commission on Human Rights. Nevertheless, the Subcommission considered that it should work under the best possible conditions and not be dependent on the pace of another commission. It, therefore, wished to recommend to the Council that the Subcommission be established as a full Commission.

6. In the informal negotiations concerning draft resolutions, it was agreed to make the Subcommission a full Commission on the Status of Women (see Economic and Social Council resolution 2/11 of 21 June 1946).

7. While the reasons for the decision are not explicitly stated in the record, it is evident that there was concern that the politicization of the Commission on Human Rights, from its very first session, and its primarily male composition (there was only one woman - Mrs. Roosevelt - on the nuclear Commission), raised fears that women's rights would be lost in a turbulent mainstream. In making this judgement, the founders drew on the experience of the Inter-American Commission on Women of the Organization of American States, which had been in existence since the 1920s, and on the early work of the League of Nations on women's rights.

8. Thus, since the beginning of the United Nations, women's rights have evolved in a separate, if parallel, fashion to the general human rights regime. The central institution in the parallel regime has been the Commission on the Status of Women. After the entry into force in 1981 of the Convention on the Elimination of All Forms of Discrimination against Women, an additional institution has been the Committee on the Elimination of Discrimination against Women, which monitors the implementation of the Convention.

9. Although there have been changes in details and in wording over the ensuing 45 years, the terms of reference of the Commission on the Status of Women have remained essentially constant since the beginning. The main changes in emphasis have been in terms of an evolution in concern away from the existence of rights de jure to their exercise de facto. In that sense, the constant and increasing concern of the Commission has been with the enjoyment by women of their human rights. This has meant that, over the years, the agenda of the Commission has increasingly emphasized development issues. These have involved a concept that this enjoyment cannot be separated from economic and political issues, as well as social issues, and that the focus must be on the daily reality in which women live.

10. It has also meant that the Commission has never been directly involved in the prevention of abuses of human rights or the identification of gross violations by individual States, as was the case with the Commission on Human Rights and its subsidiary bodies.

11. From the first session of the Commission on the Status of Women, there was recognition that there would be overlap with the work of other bodies. This could be justified when, as was usually the case, the other bodies did not take gender issues into account. The method of work of the Commission, from the

outset, was to encourage compliance by States with the Charter injunction of equality between women and men by assembling information about the actual status of women in comparison with the international norm.

12. Since its creation, the Commission has held 37 sessions over a 45-year period. Its initial concerns were with political rights and family rights. Taken together these have been seen as constituting the main basis for equality in the public and private areas of life. For analytical purposes, it is possible to divide the Commission's work into three periods: from 1947 to 1974, the concern was with establishing a firm base in international law of the norms of equality; from 1975 to 1985, the Commission concentrated its work on advocacy and policy analysis related to the United Nations Decade for Women and its themes of equality, development and peace; since 1985, the Commission has concentrated on implementation of the Nairobi Forward-looking Strategies for the Advancement of Women by a programme of priority themes. There has been a corresponding change in focus and approach, although the central mission has been unchanged. This was reflected in part in the fact that during the first period, the secretariat of the Commission was located in the Division for Human Rights; between 1973 and 1993, it was located in the Centre for Social Development and Humanitarian Affairs; and since April 1993, it has been part of the Department for Policy Coordination and Sustainable Development.

13. An examination of the work of the Commission over its 45 years of existence suggests that the initial decision to separate it from the Commission on Human Rights was wise. The Commission's work has been characterized by a steady effort to turn rights into reality through mobilizing women, providing information to Governments and to women's groups about the situation of women, and defining norms for public action and for private behaviour. Over much of the period, the Commission has been the only intergovernmental body in the United Nations that has had a significant proportion of women members. In implementing its mandate, the Commission has responded both to original objectives and to new challenges that have emerged.

14. The Committee on the Elimination of Discrimination against Women is the second main body dealing with women's human rights. In terms of procedures, the Committee was modelled after other treaty bodies, especially the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. There were several differences, however. With 23 members, a number chosen in order to ensure that different geographical areas, societies and legal systems would be represented, the Committee is the largest of the treaty-based expert bodies in the human rights regime. It also has the shortest mandated meeting time, two weeks, a time-limit contained in the Convention itself (article 20). This time-limit is unique to that Convention; no other human rights treaty places such a firm limit on its monitoring body. It is also the only treaty body which, under its Convention, provides its report to a subsidiary body of the Economic and Social Council, since under article 21 it is required to provide its report to the Commission on the Status of Women.

15. Since its first session, in 1981, the Committee has held 13 sessions, during which it has reviewed 74 initial reports of States parties, 37 second periodic reports and 5 third periodic reports.

16. In conformity with article 21 of the Convention, the Committee has adopted a policy of making general recommendations to States parties on matters raised in the context of its examination of periodic reports. As of its thirteenth session, it had adopted 21 general recommendations. Two of the most recent, establishing a new approach to the explication of the Convention's requirements, have been general recommendation No. 19, on violence against women, and general recommendation No. 21, on family law.

17. One aspect of the task of ensuring that relevant human rights mechanisms of the United Nations address, on a regular basis, violations of women's human rights is to put the considerable work of the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women at the disposal of other human rights mechanisms.

II. CURRENT INSTITUTIONAL ARRANGEMENTS FOR COOPERATION BETWEEN THE CENTRE FOR HUMAN RIGHTS AND THE DIVISION FOR THE ADVANCEMENT OF WOMEN

18. The World Conference on Human Rights assigned the Centre for Human Rights a focal role in coordinating system-wide attention for human rights. The General Assembly, in its resolution 40/108, designated the Division for the Advancement of Women as a focal point for the United Nations system for the advancement of women and the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women. The World Conference on Human Rights also stated that cooperation and coordination should be strengthened between the two Secretariat units.

19. Prior to the Conference, the Commission on Human Rights, in its resolution 1993/46 of 8 March 1993 on integrating the rights of women into the human rights mechanisms of the United Nations, condemned all acts of violence and violations of human rights directed against women, including those in situations of armed conflict. The Commission, inter alia, requested all special rapporteurs and working groups of the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities regularly and systematically to include in their reports available information on human rights violations affecting women; it requested the Secretariat to ensure that special rapporteurs, experts and working groups were fully apprised of the particular ways in which the rights of women were violated; it invited Governments to provide gender-disaggregated data; and it encouraged closer cooperation between the Commission on Human Rights and the Commission on the Status of Women and their respective secretariats in the promotion, protection and implementation of the rights of women, as well as between the Committee on the Elimination of Discrimination against Women and other treaty bodies.

20. The Centre for Human Rights is located at the United Nations Office at Geneva, but has a liaison office in New York. The Commission on Human Rights and its subsidiary bodies meet in Geneva. Several of the human rights treaty bodies serviced by the Centre meet in both New York and Geneva. Since August 1993, the Division for the Advancement of Women has been located in New York. Both the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women now meet in New York.

21. There has been some joint activities in the servicing of bodies concerned with human rights. For example, in the past few years, staff of the Centre for Human Rights have participated in the servicing of the Committee on the Elimination of Discrimination against Women and have attended some of the sessions of the Commission on the Status of Women. Staff of the Division for the Advancement of Women have attended meetings of the Subcommission on the Prevention of Discrimination and Protection of Minorities, the Committee on the Rights of the Child and other bodies, although not on a regular basis. The role of staff of the Centre for Human Rights in servicing the Committee on the Elimination of Discrimination against Women has been to provide information on developments elsewhere in the human rights regime to assist the Committee in improving its procedures and harmonizing them with other treaty bodies. The role of staff of the Division has been more passive in participating in other human rights bodies.

22. The Centre for Human Rights provides servicing to the biennial meetings of persons chairing human rights treaty bodies, which the chairperson of the Committee on the Elimination of Discrimination against Women attends. Staff of the Division for the Advancement of Women have not attended those meetings nor have they participated in their servicing.

23. Since 1946, the Commission on the Status of Women has had a procedure for examining communications. As part of its process of assembling communications, the Division for the Advancement of Women receives and examines the confidential lists prepared by the Centre for Human Rights. Similarly, any communication received by the Division that appears to be covered by Economic and Social Council resolution 1503 (XLVIII) is forwarded to the Centre for Human Rights for action (see report of the Secretary-General on ways in which the communication mechanism of the Commission has been publicized (E/CN.6/1994/8)).

24. The General Assembly, in various resolutions, and the Committee on the Elimination of Discrimination against Women, in general recommendation No. 11, have called for the organization of training and advisory services to assist States parties in implementing the Convention and, especially, in meeting their reporting obligations. Since 1988, seven courses have been organized by the Division for the Advancement of Women as part of the regular programme of technical cooperation of the United Nations. These include interregional seminars organized in Greece (1988) and Ukraine (1990) and regional and subregional seminars for Spanish- and French-speaking countries of Latin America and the Caribbean (Guatemala, 1989), the region of the South Pacific Forum (Cook Islands, 1991), the English-speaking countries of Latin America and the Caribbean (Antigua, 1992) and the French-speaking countries of Africa that were party to the Convention (Senegal, 1993). In addition, the Division participated in a regional seminar for Asia organized by the Japan International Cooperation Agency. Participants from a total of 87 countries took part in those seminars. In addition, over the period 1988-1992 the Division organized a total of six advisory missions related to the Convention to individual countries. No staff of the Centre for Human Rights participated in these seminars.

25. The Centre for Human Rights has organized training in human rights treaty implementation. No staff of the Division for the Advancement of Women have participated in these activities.

26. The Division for the Advancement of Women maintains the Women's Information System, a computerized bibliographic system for archiving United Nations documents concerning the advancement of women. It includes in its collection all of the reports of States parties to the Committee on the Elimination of Discrimination against Women and the reports and summary records of the Committee. Steps are being taken to computerize the texts of these reports. The Division also maintains collections of material received from non-governmental organizations and other countries or States parties. It does not have in its collection copies of reports of States parties to other human rights treaty bodies, although it seeks to maintain a collection of the reports of those treaty bodies.

27. The Centre for Human Rights, for its part, does not seem to have a collection of the reports of States parties to the Committee on the Elimination of Discrimination against Women.

28. At its thirteenth session, the Committee on the Elimination of Discrimination against Women addressed the issue of cooperation between the Centre for Human Rights and the Division for the Advancement of Women. In its report, the Committee stated that it looked forward to closer cooperation between the two units on the basis of agreed guidelines on methods of work to ensure that the Committee was given the same level of servicing as other human rights treaty bodies and its work was included in all publications on human rights. It noted that the Secretariat should report on cooperation and coordination as part of its pre-session report on ways and means of improving the work of the Committee. It underscored the need to have adequate resources for that purpose in both organizational units. It took note of the fact that the servicing of the Committee had always been absorbed by the Division for the Advancement of Women without an increase in resources, and stressed that, in view of the growing volume of work and new mandates, the resources available to the Division for servicing the Committee should be increased. Within the structure of the Division an adequately staffed substructure should be created for servicing the Committee on a permanent basis (see A/49/38, chap. V).

29. As part of its own implementation of the World Conference on Human Rights, the Centre for Human Rights has established a focal point for women's rights in the Office of the Assistant Secretary-General. For its part, consideration is being given to the possibility of creating a women's human rights unit within the Division for the Advancement of Women from existing staff.

30. It is against the backdrop of current cooperation and concerns that the proposals of the Secretary-General have been formulated.

III. PROPOSED STEPS TO ENSURE THAT RELEVANT HUMAN RIGHTS MECHANISMS OF THE UNITED NATIONS ADDRESS ON A REGULAR BASIS VIOLATIONS OF WOMEN'S HUMAN RIGHTS

31. To ensure that the various human rights mechanisms effectively address in their work violations of women's human rights, including gender-specific abuses, the steps to be taken by the Division for the Advancement of Women, in cooperation with other bodies, and primarily with the Centre for Human Rights, will aim at assisting the various bodies in integrating a gender dimension in their working methods.

32. A number of steps can be taken immediately, while others will require further study to propose meaningful action. Given the short period of time available since the adoption of General Assembly resolution 48/108 for the preparation of the present report, the Secretary-General proposes that it be considered as an interim report.

33. A basic premise is that a gender analysis needs to be applied in all human rights activities. Applied to international human rights law, gender analysis shows that these norms are not sex-neutral, but that their application (and, in part, also their content) and thus the equal protection and promotion of the human rights of women is dependent on the socially determined relations between men and women. In other words, while there is a generally accepted obligation to eliminate discrimination under international human rights law, the formal requirement of equal treatment of men and women does not take into consideration the particular nature of discrimination against women, which is systemic, pervasive, structural and cultural, and which is at the base of women's unequal enjoyment of their rights. Consequently, if the goal of universal realization of the human rights of all, without discrimination, is to be achieved, international human rights law must be applied in a way that accounts for the structural causes of women's inequality. By factoring into the analysis such issues as systemic discrimination in public and private life, women's inferior social position relative to men of the same class, and the privileges of men and lack of privileges of women institutionalized in the law, a gender-specific basis for the denial of rights becomes apparent. Making gender-based differences visible is a precondition for enabling all human rights mechanisms to address all forms of discrimination that women suffer, and to "level the playing field" for the equal enjoyment of all human rights by men and women. The Convention on the Elimination of All Forms of Discrimination against Women remains the principal international instrument which promotes the advancement of women within a rights-based framework, recognizes discrimination at both the private and the public level as a major obstacle to the advancement of women, and includes provisions for the creation of opportunities and related access.

34. To assist the various human rights mechanisms to address on a regular basis violations of women's human rights, including gender-specific abuses, it is proposed to pursue the goal of integrating a gender dimension into the working methods of the human rights mechanisms. As a result, gender-specific human rights violations would be identified and addressed as a matter of course. To achieve this goal, it is proposed to provide specific, targeted information and other support concerning violations of women's human rights to the individual human rights mechanisms. While most of the following proposals are of a

permanent and ongoing nature, some could be initiated immediately, while others would be the result of certain initial action or be dependent on the availability of resources.

35. The following steps are proposed:

(a) Preparation of a study (jointly by the Division for the Advancement of Women and the Centre for Human Rights) on the mandates, working methods and responsibilities of the human rights mechanisms, including women's human rights mechanisms. The study would analyse the current status of servicing provided by the Division and the Centre for Human Rights, respectively. Based on its findings, the study would propose specific modalities for cooperation between the Centre and its focal point and the women's human rights unit of the Division. It would make recommendations on the specific types, forms, quantity, frequency and presentation of information to be provided by the Division to the Centre for use by the individual human rights mechanisms. Subject to adjustments according to the detailed findings of the study, the Division will work with the Centre in fully utilizing the information available within the Division, in particular, States parties reports under the Convention on the Elimination of All Forms of Discrimination against Women and their consideration by the Committee, general recommendations and other statements of the Committee, country-specific information available through the second review and appraisal of the Nairobi Forward-looking Strategies for the Advancement of Women, and policy recommendations of intergovernmental bodies, primarily the Commission on the Status of Women and the General Assembly. Particular emphasis will be put on providing concise information in an accessible and manageable form for greater impact, including:

(i) Providing country briefs to the treaty-based bodies for consideration of States parties reports, as applicable;

(ii) Providing briefs to special thematic and country rapporteurs;

(iii) Providing input to the working groups through studies, background papers and participation in meetings;

(iv) Establishing a special cooperation agreement with the special rapporteur on violence against women (to include regular meetings between the Committee on the Elimination of Discrimination against Women and the rapporteur);

(b) The Division will contribute to the preparation by the Centre for Human Rights of training workshops and materials on gender analysis for secretariat staff servicing the human rights mechanisms, as well as for individuals serving on those mechanisms, in order to ensure that they are fully apprised of the particular ways in which the human rights of women are violated, as well as with regard to gender-specific abuses (for example, violence against women). This would include training in analysing gender-disaggregated data, as well as analysing other information. The design of such materials would be influenced by the findings of the above study;

(c) The Division for the Advancement of Women will participate in, as required, and contribute to the preparation of certain meetings, such as the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, through participation in the substantive servicing of meetings of treaty bodies, such as provision of information in the elaboration of general comments and recommendations;

(d) Annual preparation of a joint Centre for Human Rights/Division for the Advancement of Women work plan based on agendas of human rights mechanisms, to be submitted for information to the Commission on Human Rights and the Commission on the Status of Women;

(e) Participation in the Advisory Services and Technical Assistance Programme of the Centre for Human Rights, with a view to ensuring that gender concerns are addressed;

(f) Institutionalization of communication with national machinery, with a view to establishing channels of communication and cooperation between the women's machinery and the human rights machinery, including provision of technical assistance and preparation of guidelines.

36. The Division for the Advancement of Women and the Centre for Human Rights would jointly undertake the compilation and publication of pertinent provisions contained in human rights international instruments which are specifically relevant to women as well as the implementation procedures and guidelines followed by the treaty-monitoring bodies. This publication will be widely disseminated in cooperation with the Department of Public Information.

37. The Division for the Advancement of Women and the Centre for Human Rights would cooperate in exchanging information on documentation. In particular, the Centre will provide to the Division for the Advancement of Women the relevant reports by States parties to the various treaty-monitoring bodies serviced by the Centre.

38. The Centre is studying the possibility of convening an expert meeting to develop specific guidelines on how to identify, document and report on gender-based human rights violations, and how to effectively integrate human rights in the United Nations mechanism.

39. With this in mind, it is proposed immediately to take those steps that can be accommodated within existing resource levels. These include the preparation of the study noted above (para. 35 (a)), the implementation of a systematic exchange of published documents, and the drafting of a joint work plan between the Centre for Human Rights and the Division for the Advancement of Women. These initial steps should also be considered as input to the Fourth World Conference on Women, which, inter alia, will review institutional and financial arrangements for the advancement of women.